

DOCKET FILE COPY ORIGINAL

Denise Berger**From:** on behalf of MMBSecretary**Subject:** FW: Filing on 02-376

-----Original Message-----

From: REC Networks2 [mailto:rec@recnet.com]**Sent:** Tuesday, June 17, 2003 11:56 PM**To:** MMBSecretary; William Caton; qualexint@aol.com**Subject:** RE: Filing on 02-376

This is a resend.

Attachement was missing from original e-mail.

RECEIVED & INSPECTED

JUN 17 2003

FCC - MAILROOM

-----Original Message-----

From: REC Networks2 [mailto:rec@recnet.com]**Sent:** Tuesday, June 17, 2003 8:54 PM**To:** mmbsecretary@fcc.gov; wcaton@fcc.gov; qualexint@aol.com**Subject:** Filing on 02-376

Bill...

Let's try another filing to the mmbsecretary@fcc.gov mailbox to see if it makes it. This is a response to a Supplement we were served on an allotment case, MB 02-376.

Please make sure the mmbsecretary mailbox has properly received this pleading and that it posts to ECFS.

We are concerned that our reply comments, though timely filed to the mmbsecretary mailbox and timely served on the parties is showing in ECFS with a received date well past the deadline. Do we need to file a separate motion to make those comments considered "timely" (even though we did make an effort to submit them as timely) or will the current filing suffice.

If you have any questions about this pleading, please call me at 480 217-6619.

Thanks again.

Rich Eyre for
REC Networks

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6/18/2003

**Before The
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.**

In the matter of:)	MB Docket 02-376
)	RM-10617
Amendment of §73.202 of the Commission's)	(Sells, Arizona)
Rules - Table of Allotments for FM)	
Broadcast Stations.)	RM-10690
)	(Davis Monthan AFB, Phoenix
)	and Wilcox, Arizona)

REPLY TO SUPPLEMENT FILED BY LAKESHORE MEDIA

REC Networks ("REC") is a supporter of locally owned and diverse radio. REC currently operates several Internet only radio stations. REC also operates several websites including the original LPFM Channel Search Tool. REC Networks also represents the interests of independently owned Low Power FM ("LPFM") broadcast stations and their listeners as well as the interest of radio listeners in rural areas. Since the above captioned proceeding will have an impact on the future of local radio in REC's area of interest¹, REC should be considered an "impacted party" in this proceeding. REC has no plans to apply for the channel. REC should be considered an independent third party.

REC was properly served and has reviewed the Supplement filed by Lakeshore Media, LLC ("Lakeshore") responding to Journal Broadcast Corporation's ("Journal") Reply Comments².

Lakeshore's reliance on *Lebanon and Speedway, Indiana* does not apply in this case. The primary difference between Speedway and Davis-Monthan Air Force Base ("DMAFB") is that Speedway is still considered a community by the United States Census Bureau. As Journal points out in their reply comments, DMAFB lost their community status in the 1990 Census³.

1 - REC's "Area of Interest" include the entire states of Arizona and Nevada as well as the Southern California counties of Kern, Los Angeles, Inyo, San Bernardino, Ventura, Riverside, Orange, San Diego and Imperial.

2 - REC is responding to this supplement filed by Lakeside to Journal's reply comments as it raises some of the same issues that REC raised in Reply Comments. Due to our involvement in rural and community media issues within our Area of Interest, REC has already established itself as an "impacted party" in this proceeding.

3 - See Journal Broadcasting Reply Comments at 2.

We also point out that San Fernando, California is an incorporated city and is completely surrounded by the city of Los Angeles is listed the Census and has one FM allotment.

Unless an outstanding public interest issue⁴ exists, REC feels that recognition by the Census Bureau as at a minimum, a Census Designated Place (CDP) is absolute the minimum requirement for a locality obtaining community status for allotment purposes⁵.

REC has demonstrated in Reply Comments⁶ that the area where DMAFB is located is already well served by 13 city grade FM signals, many of them licensed to Tucson, an urbanized area. In one other case, the Commission denied an allotment to a locality not listed in the Census that already received 5 services⁷. Therefore, REC feels that DMAFB is similar to Littlefield, Arizona in many ways and that granting an allotment to DMAFB, especially at the expense of Willcox would be contrary to the will of Congress as stated in 47 USC 307(b) and therefore would not be in the public interest.

REC therefore urges the Commission to deny the counterproposal of Lakeshore and grant the original allotment to Sells, Arizona without further delay.

Respectfully submitted,

/S/

Rich Eyre for

REC Networks

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<http://www.recnet.com>

4 - See *Essex, California* 3 FCC Rcd 5403 (1988), *Essex and Needles, California* 10 FCC Rcd 7283. In this case, the FCC granted an allotment even though the locality was not listed in the Census but due to the extenuating circumstances of providing FM service to an underserved area that has a very well traveled interstate highway, an allotment is warranted. This is our main argument of another open allotment proceeding with a similar situation.

5 - See *Littlefield, Arizona* 15 FCC Rcd 10263 (2000) (denied).

6 - We note that our Reply Comments were timely filed with the Secretary's office using the mmbsecretary@fcc.gov mailbox in accordance with FCC Public Notice 01-345 however our comments were not properly received in the mailbox. After working with Bill Caton in the OSEC, we were able to get our reply comments successfully submitted and posted on ECFS. We do note that we did timely serve all impacted parties a copy of our Reply Comments as of the original comment deadline.

7 - See *Littlefield, Arizona* (on reconsideration) 15 FCC Rcd 21547 (2000).

CERTIFICATE OF SERVICE

In the best interest of National Security, REC Networks is filing this pleading electronically with the Secretary in the designated Media Bureau electronic mailbox (mmbsecretary@fcc.gov) pursuant to Public Notice FCC 01-345. A courtesy copy will be filed directly with William Caton in the Office of the Secretary due to past issues with the mmbsecretary@fcc.gov mailbox.

In addition, a copy of this pleading will be filed electronically with the following:

Qualex International
FCC Duplication Contractor
qualexint@aol.com

A copy of this pleading will be sent via First Class mail to the parties in this proceeding:

Lakeshore Media, LLC
Mark N Lipp
Shook, Hardy and Bacon LLP
600 14th Street NW, Suite 800
Washington DC 20005

Journal Broadcast Group, Inc.
Andy Laird
720 E. Capitol Drive
Milwaukee, WI 53212

Rural Pima Broadcasting
Scott C. Cinnamon
Law Offices of Scott C. Cinnamon, PLLC
1090 Vermont Ave., NW
Suite 800, #144
Washington DC 20005

Gregory Masters
Wiley, Rein & Fielding
1776 K Street NW
Washington DC 20006

June 17, 2003